



TEXAS FUNERAL SERVICE COMMISSION

2ND QUARTER NEWSLETTER

December 2015 – February 2016

December 1, 2015

Happy Holidays! I hope everyone had a Happy Thanksgiving and got to spend some time with family and friends.

At the September meeting, Commissioners voted to approve revisions to 22 Texas Administrative Code, Chapters 201 and 203. The updated rules took effect on October 18, 2015. Links to the updated rules can be found on the TFSC website.

I have been working with our contracted vendor to develop the online mortuary law exam. As of today, we expect the exam to be up and running by the first week of January. It is the agency's expectation that moving to an online exam will make it easier for applicants to take the exam. I want to thank those stakeholders who met with me earlier this year during the pre-development stage.

Please note our office will be short-staffed during the last two weeks of December. Our 11 member staff has asked to spend time with their families during the holiday season. Please be patient and know we will get back to you as soon as possible. And, for those of you whose license expires on December 31, 2015, I would encourage you to renew early.

As always, please feel free to share your thoughts and concerns with me.

Yours truly,

A handwritten signature in cursive script that reads "Janice".

Janice S. McCoy
Executive Director

Changes at the Commission

At the September meeting, Commissioners selected Jonathan Scepanski to serve as Assistant Presiding Officer. Commissioner Scepanski is a public member from Edinburg. He will serve in his role for one year.

The Commission hired Martin “Marty” Manzi as an Investigator. Marty started with the Commission on October 12, 2015. Marty spent 27 years with the San Marcos Police Department retiring as the Night Shift Patrol Commander. Marty received a Bachelor of Science Degree in Criminal Justice with a Minor in Psychology from Southwest Texas State University (Marty does not acknowledge Texas State University). During Marty’s tenure at San Marcos he oversaw the Community Services Division, Juvenile Investigations, motorcycle/traffic unit and the police field training program. Marty currently lives in Wimberley, TX with his wife of 22 years and his son.

The TFSC is currently in the process of conducting a customer service survey. You can access the survey from the agency’s website. Your input will help agency staff by telling us how we are doing and how we can improve. Completed surveys must be returned by March 1, 2016. Thank you for taking the time to help us serve you better.

Just a friendly reminder, Tex. Occ. Code §651.658 requires a crematory to file a report with the Commission listing the total number of cremations performed during the previous year. Calendar year 2015 cremation numbers are due to the Commission by January 30, 2016. There is a \$100 per day penalty for filing late.

Upcoming Commission Meetings

The TFSC meeting will be held **Tuesday, December 8th**, beginning at 9:00 am in Room 2-225 of the William P. Hobby Building in Austin, Texas. Licensed Texas funeral directors and embalmers can receive up to four hours of continuing education credit for attending a Commission meeting.

The Commission has tentatively scheduled the following dates for future meetings:

March 1, 2016
June 21, 2016
September 13, 2016
December 13, 2016

A Message from Licensing

The Licensing Division fulfills the TFSC’s mission to protect the public from deceptive practices by performing licensing, registration, examination and continuing education functions.

Change of Address

Licensees must notify the Commission in writing if they have a change of address. This notification helps ensure mail communication to licensees is not delayed.

Provisional Program

With the updates to the Commission's rules and statute, there have been many changes to the Provisional program. The program now allows a person who is not and has never been enrolled in an accredited school or college of mortuary science to receive a provisional license for a period of 12 months. It is important to note the license will not be renewed until the licensee shows he/she has enrolled in an accredited school or college of mortuary science.

The rules also require an applicant to take and pass the Mortuary Law Exam prior to being issued a provisional licensee.

Finally, the statute authorizes a person who does not complete the program during the prescribed time to reapply for a provisional license. A person may only reapply one time, but there is no waiting period between licenses.

Duplicate License

A licensee shall conspicuously display his/her license in each place of business at which the licensee practices. All licenses displayed must be the original embossed license issued by the Commission and may not be a copy of the original license.

The fee for a duplicate license is \$5.00 per license ordered.

Renewals

To renew online, go to www.hpc.state.tx.us/message.php or follow the links from the TFSC website. The website details what information is required for license issuance.

The online renewal system is administered by the Health Professions Council (an umbrella agency for health-related agencies including the Commission). The HPC runs the help-desk and is responsible for questions about renewing online – including resetting forgotten passwords. The HPC help-desk states it can take multiple days to respond to a help ticket, especially near the end of the month. The help-desk only responds to emailed help requests.

Continuing Education

All active license holders must complete 16 hours of continuing education every two years. Licensees who are on retired, active status or disabled, active status are required to obtain 10 hours of continuing education. Inactive licensees are not required to take continuing education.

The Commission performs a random audit of continuing education credits. Each month, 10 percent of individual licensees will receive a letter with the renewal notice stating that he/she will have to submit his/her certificates to the Commission prior to renewal.

Failure to complete required continuing education will delay renewal of the license and may cause additional fees and penalties to be imposed. It is the sole responsibility of the licensee to submit continuing education certificates to the Commission, even if the licensee renewed online.

Public Licensing Information

A person can verify an individual/establishment is licensed with the Commission by accessing the TFSC website and following the "License Search & Verification" link.

FDIC/EIC

At all times a licensed funeral establishment must have a designated funeral director in charge (FDIC). The FDIC is ultimately responsible for compliance with all mortuary, health and vital statistics laws in the funeral establishment. Commercial Embalming Establishments must have a designated embalmer in charge (EIC) at all times. Funeral establishments that perform embalming services should only designate a FDIC, not both.

Any time a FDIC/EIC changes establishments he/she must notify the Commission by submitting the prescribed forms within 15 days. All forms – FDIC Appointment/Removal and EIC Appointment/Removal - can be found on the TFSC website by following the “TFSC Establishment Licensing & Regulations” link.

Publications

All licensed funeral homes are required to provide the TFSC promulgated *Facts about Funerals* brochure to customers when funeral services are discussed. Funeral homes must order the brochure from the Commission.

The Texas Funeral Service Commission Law Book (Effective Sept. 2015) can be purchased for \$15.00. The law book includes the Commission’s governing statute, the Commission’s rules and other laws relevant to the death care industry.

Publication order forms can be found on the TFSC website by following the “TFSC Forms” link. Please use this order form to avoid delays in shipment of orders. All orders must include a physical shipping address or the orders will not be processed.

A Message from Compliance

The Compliance Division fulfills the TFSC’s mission to protect the public from deceptive practices by inspecting establishments and investigating complaints.

Complaints

With the updates to the Commission’s rules, a written complaint must be filed within two years of the event giving rise to the complaint. However, the Executive Director may waive this requirement if the complainant shows good cause for the late filing.

Disposition of a Body

One of the most common questions received by the Compliance Division relates to who has the right to control the disposition of a decedent’s body. This information is found in the Texas Health and Safety Code §711.002. Additionally, Subsection (k) outlines the appropriate measures to be taken if there is a dispute among the people who may have the right to control the disposition of a decedent’s body.

Embalming

Tex. Occ. Code §651.457 states “A person violates this chapter if the person embalms a body without receiving the *express* written or oral permission of a person authorized to make funeral arrangements for the deceased” (emphasis added).

In recent months, the Commission has noticed an increase in the number of complaints related to the use of the term “prepare the body” by a funeral director. To the licensed funeral director “prepare a body” may mean to embalm the deceased. However, a family member may understand “prepare a body” to mean something else to include removal, bathing, or dressing the body.

Using the industry lingo “prepare the body” instead of expressly asking for permission to embalm may lead to embalming being performed without express permission being granted. While it may seem to be semantics, by making sure the family member knows he/she is being asked for permission to embalm, the funeral director could avoid possible administrative penalties and/or sanctions.

The Administrator of Compliance encourages all funeral directors to stop using the term “prepare” in lieu of the term “embalm.”

A Message from Legal

The laws governing the death care industry are found in Texas Occupations Code Chapter 651, Texas Health and Safety Code Chapter 716, and 22 Texas Administrative Code, Chapters 201-209. All the laws and rules can be found on the TFSC website by following the “TFSC Governing Laws” link.

New Process for Violations

With the updates to the Commission’s rules, there is a new process for handling violations. Instead of a mandatory Informal Conference, a licensee may opt to negotiate the violation and penalty with the agency’s Staff Attorney. If no resolution is reached during the informal process, the case will be automatically set for a hearing at the State Office of Administrative Hearings. Only after an Administrative Law Judge has issued a Proposal for Decision will the case be taken to Commissioners for a final determination.

Criminal Convictions

22 TAC §203.15 requires a current licensee to disclose, in writing, any conviction at the time of renewal or no later than 30 days after judgment in the trial court, whichever date is earlier. It also requires an applicant to disclose in writing any conviction against him/her at the time of application. Licensees and applicants with a criminal conviction must fill out a questionnaire which can be found on the TFSC website.

The Commission may suspend or revoke a license or refuse to issue a license on the grounds the licensee or applicant has been convicted of a felony or misdemeanor that directly relates to the duties and responsibilities of the occupation of funeral director or embalmer.

Public Information

The Public Information Act gives a person the right to access government records without disclosing why the records are being requested. While all government information is presumed to be available to the public, certain exceptions may apply to the disclosure of the information. In the case of the TFSC, information concerning open complaints and investigations is exempt from disclosure by law.

For Your Information**Wreaths Across America**

The Texas Funeral Directors Association will be sponsoring the 10th Annual Wreaths Across America Ceremony honoring Texas veterans on December 7, 2015. The event will take place on the South Steps of the Texas State Capitol at 11:00 am. For more information on Wreaths Across America visit www.wreathsasscrossamerica.org.

High Consequence Infectious Disease Response Workshop

The Texas Department of State Health Services Health Emergency Preparedness and Response Section will host a series of eight workshops for the purpose of sharing in-depth, Texas-specific preparedness and response information pertaining to high consequence infectious disease. The workshops will provide information for attendees to review current strategies, assess levels of preparedness and response capacity, and identify gaps. Visit www.texas-hcid-workshops.org for general information such as dates, agenda, and featured speakers.

Cemetery Ingress/Egress

Health & Safety Code §711.041 provides that any person who wishes to visit a cemetery or private burial grounds for which there is no public access shall have the right to reasonable ingress and egress for the purpose of visiting the cemetery or private burial grounds. The owner of the property may determine reasonable hours of visitation and routes needed to access the cemetery.

Military Funeral Honors

Anyone providing Military Funeral Honors for an eligible veteran should visit the Department of Defense Military Funeral Honors website at www.dmdc.osd.mil/mfh for information. The website serves as a resource tool for funeral directors as they assist veterans' families by arranging Military Funeral Honors. The core elements of the Funeral Honors ceremony, which will be conducted on request, include: Flag Folding, Flag Presentation and the Playing of Taps.

If the family of an eligible veteran requests Funeral Honors through their funeral director, the funeral director should contact the appropriate Military Service to arrange for the Funeral Honors detail. The Department of Defense has established a toll free line (1-877-MIL-HONR) for use only by Funeral Directors to request honors. The Services request at least 48-hours in order to organize the Funeral Honors detail.

Texas State Veterans Cemetery

Veterans are eligible to be buried in a Texas State Veterans Cemetery. Funeral homes should work with the families who choose to have their loved ones buried in a Texas State Veterans Cemetery to determine the type of interment the family wishes. Options to be considered are a full-casketed burial, in-ground burial of cremated remains, a columbarium niche for cremated remains, or the scattering of ashes in the memorial garden.

The funeral home should ask the family to provide a copy of the military discharge form (DD Form 214) or other military service documents to ensure eligibility. If the funeral is for the spouse of a veteran, the funeral home should request a copy of the marriage certificate. The funeral home should contact the family's Veterans cemetery of choice and make all of the arrangements for the burial service.

Although viewing facilities are not available at the cemetery, and funeral services cannot be held at Texas State Veterans Cemeteries, a family may request that a final committal service be performed. Military Honors are performed during these committal services. Committal services are held in committal shelters, followed by burial at the grave site. Floral arrangements will accompany the casket or urn from the committal shelter to the grave site.

Some families may have retained cremated remains and wish to place them at a Texas State Veterans cemetery. If this is the case, the family may contact the cemetery directly, without going through a funeral home.

Contact the Veterans Land Board toll free at 1-800-252-VETS (8387) for questions.

Preneed Funeral Contracts

The Texas Department of Banking (DOB) regulates prepaid funeral merchandise or services. Prepaid funeral merchandise and services are defined as goods and services sold on a prepaid basis directly to the public for use in connection with future funeral services. Along with the normal funeral service items, prepaid funeral merchandise and services also include opening and closing of the grave and outer-burial containers. The term does not include a grave, marker, monument, tombstone, crypt, niche, plot, or lawn crypt unless it is sold in contemplation of trade for a funeral service or funeral merchandise.

Any funeral home or cemetery that sells prepaid funeral merchandise or services in Texas must have: (1) a trust-funded permit issued by the DOB or (2) sell through an insurance-funded permit holder.

Further information can be accessed at the DOB's website at www.dob.texas.gov.

Perpetual Care Cemetery

A cemetery operated as a perpetual care cemetery means that a perpetual care fund for its maintenance has been established in conformity with state law. Perpetual care means the maintenance, repair and care of the cemetery. The Texas Department of Banking (DOB), not the Commission, regulates perpetual care cemeteries.

Just for Fun

We all miss Frosty when he's gone. . .



funnies.com

Agency Contact Information

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Austin, TX 78711

Physical Address

Texas Funeral Service Commission
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Austin, TX 78701

Web Address

www.tfsc.texas.gov

Agency Directory

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